

REMARKS

The Decision on Appeal mailed September 16, 2010 has been received and reviewed. All claims stand rejected. Prior to the present communication, claims 1-30, 32-63 and 65-71 were pending in the subject application. Each of claims 1 and 35 has been amended herein. Thus, claims 1-30, 32-63 and 65-71 remain pending. It is submitted that no new matter has been added by way of the present amendments. Reconsideration of the subject application is respectfully requested in view of the above amendments and the following remarks.

Rejections based on 35 U.S.C. § 103

Claims 1-30, 32-63 and 65-71 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,177,931 to Alexander et al. (hereinafter "Alexander") in view of U.S. Publication No. 2002/0010928 to Sahota (hereinafter "Sahota") and U.S. Patent No. 6,615,039 to Eldering (hereinafter "Eldering"). Applicants respectfully submit that the cited references fail to teach or suggest every element of independent claims 1 and 35, as amended herein. Accordingly, Applicants respectfully traverse this rejection.

Independent claim 1, as amended herein, is directed to a system for displaying promotions on a viewing device. The system includes, in part, a network device coupled to the viewing device, the network device configured to separately receive both a promotion and a transmission schedule, wherein the transmission schedule contains control data that specifies a condition for activating the promotion for display in the display and the transmission schedule is received as a message which is individually addressed to the network device, and wherein the promotion is received such that the promotion is uniquely activated based on the condition of the individually addressed transmission schedule. The amendments to claim 1 illustrate that the process of targeting a promotion is separate from the process of delivering the promotion. The

As-Filed Specification clearly illustrates that transmission schedules are transmitted to each network device individually using a messaging protocol for unicast transmission. *See* As-Filed Specification, p. 10, line 28 to p. 11, line 5. The promotions, however, are transmitted using a different messaging protocol for multicast and broadcast transmissions. *Id.*

In contrast, Alexander is directed to the display of, and recording control interface with, television programs, video, advertising information and program scheduling information. *See*, Alexander, col. 1, ll. 35-40. Alexander links an advertisement with a time and channel of a program and enables a user to select the program. *Id.* at col. 4, ll. 28-43 and col. 5, ll. 7-14. Alexander fails to teach or suggest receiving the transmission schedule as a message individually addressed to the network device. *See Final Office Action dated 02/06/2007*, p. 4. As such, Applicants respectfully submit that Alexander cannot teach or suggest separately receiving the individually addressed transmission schedule and a promotion, wherein the promotion is received such that the promotion is uniquely activated based on the condition of the individually addressed transmission schedule, as recited in amended independent claim 1.

Sahota fails to overcome the deficiencies of Alexander. Sahota is directed to integrating Internet advertising with television commercials. *See e.g.*, Sahota, Abstract. Sahota describes inserting an ATVEF trigger into a TV commercial to link the TV commercial with an Internet advertisement. *Id.* at ¶ [0053]. Sahota also fails to teach or suggest receiving the transmission schedule as a message individually addressed to the network device. *See Final Office Action dated 02/06/2007*, p. 4. As such, Applicants respectfully submit that Sahota cannot teach or suggest separately receiving the individually addressed transmission schedule and a promotion, wherein the promotion is received such that the promotion is uniquely activated

based on the condition of the individually addressed transmission schedule, as recited in amended independent claim 1.

Eldering further fails to overcome the deficiencies of Alexander. Eldering is directed to a targeted advertising system based on subgroups. *See e.g.*, Eldering, Abstract. Different subgroups are formed based on subscriber characteristics and different targeted advertisements are transmitted to the different subgroups. *Id.* The subgroups are formed by using *multicast* addresses and the targeted advertisements may be *transmitted simultaneously with programming* and inserted locally. *Id.* (emphasis added).

Eldering simply delivers a targeted advertisement that is *already targeted* to the subgroup. Eldering does not, at any point, teach or suggest *separately* receiving both a promotion and a transmission schedule, as recited in claim 1. Rather, since the promotions are already targeted, there would be no need for a transmission schedule specifying the condition for activating the promotion, as recited in amended independent claim 1.

Further, Eldering also fails to teach or suggest wherein the promotion is received such that the promotion is uniquely activated based on the condition of the individually addressed transmission schedule, as recited in amended independent claim 1. Initially, Applicants respectfully submit that Eldering does not *separately* communicate a promotion and an *individually addressed* transmission schedule. Rather, Eldering *multicasts* targeted advertisements to subgroups. *Id.* at col. 5, ll. 35-37.

Applicants also submit that Eldering also fails to teach or suggest receiving a promotion such that it is uniquely activated based on the condition of the individually addressed transmission schedule. As previously explained, the advertisements transmitted to the subgroups

are *already targeted* and are not uniquely activated based on conditions specified in a transmission schedule, let alone an *individually addressed* transmission schedule.

As such, Applicants respectfully submit that independent claim 1, as currently amended, is not obvious over Alexander in view of Sahota and Eldering. Thus, Applicants respectfully request the 35 U.S.C. § 103(a) rejection of independent claim 1 be withdrawn. Each of claims 2-30, 32-34, and 68-70 depend, either directly or indirectly, from independent claim 1. Thus, withdrawal of the 35 U.S.C. § 103(a) rejection of claims 2-30, 32-34, and 68-70 is respectfully requested for at least the above-cited reasons. *See In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) (a dependent claim is obvious only if the independent claim from which it depends is obvious); *see also*, MPEP § 2143.03.

Independent claim 35 is directed to a method for displaying targeted promotions on a viewing device. The method includes, in part, in response to encountering the condition specified in the individually addressed transmission schedule, displaying the promotion on the viewing device.

Independent claims 1 and 35 recite generally similar claim limitations. Therefore, the above arguments regarding independent claim 1 apply with equal force to independent claim 35. As such, for the reasons set forth above with respect to independent claim 1, Applicants respectfully request withdrawal of the rejection of independent claim 35. Each of claims 36-63, 65-67, and 71 depend, either directly or indirectly, from independent claim 35. As such, Applicants request withdrawal of the rejection of claims 36-63, 65-67, and 71 as well. *See In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) (a dependent claim is obvious only if the independent claim from which it depends is obvious); *see also*, MPEP § 2143.03.

CONCLUSION

For at least the reasons stated above, claims 1-30, 32-63 and 65-71 are believed to be in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or asturgeon@shb.com (such communication via email is herein expressly granted) – to resolve the same.

Submitted herewith is a Request for Continued Examination, along with the appropriate fee. It is believed that no additional fee is due. However, if this belief is in error, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112, referencing attorney docket number 325520.02/MFCP.143798.

Respectfully submitted,

/ASHLEY N. STURGEON/

Ashley N. Sturgeon
Reg. No. 64,819

ANL/tq
SHOOK, HARDY & BACON L.L.P.
2555 Grand Blvd.
Kansas City, MO 64108-2613
816-474-6550